

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 577
95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHIELDS.

Offered February 24, 2010.

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TERRY L. SPIELER, Secretary.

3568S.07P

AN ACT

To repeal sections 105.955, 105.957, 105.959, 105.961, 105.966, 130.021, 130.031, and 130.044, RSMo, and to enact in lieu thereof eight new sections relating to Missouri ethics commission oversight over public officials while serving in and running for office, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 105.955, 105.957, 105.959, 105.961, 105.966, 130.021, 2 130.031, and 130.044, RSMo, are repealed and eight new sections enacted in lieu 3 thereof, to be known as sections 105.955, 105.957, 105.959, 105.961, 105.966, 4 130.021, 130.031, and 130.044, to read as follows:

105.955. 1. A bipartisan "Missouri Ethics Commission", composed of six 2 members, is hereby established. The commission shall be assigned to the office 3 of administration with supervision by the office of administration only for 4 budgeting and reporting as provided by subdivisions (4) and (5) of subsection 6 5 of section 1 of the Reorganization Act of 1974. Supervision by the office of 6 administration shall not extend to matters relating to policies, regulative 7 functions or appeals from decisions of the commission, and the commissioner of 8 administration, any employee of the office of administration, or the governor, 9 either directly or indirectly, shall not participate or interfere with the activities 10 of the commission in any manner not specifically provided by law and shall not 11 in any manner interfere with the budget request of or withhold any moneys

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 appropriated to the commission by the general assembly. All members of the
13 commission shall be appointed by the governor with the advice and consent of the
14 senate from lists submitted pursuant to this section. Each congressional district
15 committee of the political parties having the two highest number of votes cast for
16 their candidate for governor at the last gubernatorial election shall submit two
17 names of eligible nominees for membership on the commission to the governor,
18 and the governor shall select six members from such nominees to serve on the
19 commission.

20 2. Within thirty days of submission of the person's name to the governor
21 as provided in subsection 1 of this section, and in order to be an eligible nominee
22 for appointment to the commission, a person shall file a financial interest
23 statement in the manner provided by section 105.485 and shall provide the
24 governor, the president pro tempore of the senate, and the commission with a list
25 of all political contributions and the name of the candidate or committee, political
26 party, or continuing committee, as defined in chapter 130, RSMo, to which those
27 contributions were made within the four-year period prior to such appointment,
28 made by the nominee, the nominee's spouse, or any business entity in which the
29 nominee has a substantial interest. The information shall be maintained by the
30 commission and available for public inspection during the period of time during
31 which the appointee is a member of the commission. In order to be an eligible
32 nominee for membership on the commission, a person shall be a citizen and a
33 resident of the state and shall have been a registered voter in the state for a
34 period of at least five years preceding the person's appointment.

35 3. The term of each member shall be for four years, except that of the
36 members first appointed, the governor shall select three members from
37 even-numbered congressional districts and three members from odd-numbered
38 districts. Not more than three members of the commission shall be members of
39 the same political party, nor shall more than one member be from any one United
40 States congressional district. Not more than two members appointed from the
41 even-numbered congressional districts shall be members of the same political
42 party, and no more than two members from the odd-numbered congressional
43 districts shall be members of the same political party. Of the members first
44 appointed, the terms of the members appointed from the odd-numbered
45 congressional districts shall expire on March 15, 1994, and the terms of the
46 members appointed from the even-numbered congressional districts shall expire
47 on March 15, 1996. Thereafter all successor members of the commission shall be
48 appointed for four-year terms. Terms of successor members of the commission
49 shall expire on March fifteenth of the fourth year of their term. No member of

50 the commission shall serve on the commission after the expiration of the
51 member's term. No person shall be appointed to more than one full four-year
52 term on the commission.

53 4. Vacancies or expired terms on the commission shall be filled in the
54 same manner as the original appointment was made, except as provided in this
55 subsection. Within thirty days of the vacancy or ninety days before the expiration
56 of the term, the names of two eligible nominees for membership on the
57 commission shall be submitted to the governor by the congressional district
58 committees of the political party or parties of the vacating member or members,
59 from the even- or odd-numbered congressional districts, based on the residence
60 of the vacating member or members, other than from the congressional district
61 committees from districts then represented on the commission and from the same
62 congressional district party committee or committees which originally appointed
63 the member or members whose positions are vacated. Appointments to fill
64 vacancies or expired terms shall be made within forty-five days after the deadline
65 for submission of names by the congressional district committees, and shall be
66 subject to the same qualifications for appointment and eligibility as is provided
67 in subsections 2 and 3 of this section. Appointments to fill vacancies for
68 unexpired terms shall be for the remainder of the unexpired term of the member
69 whom the appointee succeeds, and such appointees shall be eligible for
70 appointment to one full four-year term. If the congressional district committee
71 does not submit the required two nominees within the thirty days or if the
72 congressional district committee does not submit the two nominees within an
73 additional thirty days after receiving notice from the governor to submit the
74 nominees, then the governor may appoint a person or persons who shall be
75 subject to the same qualifications for appointment and eligibility as provided in
76 subsections 2 and 3 of this section.

77 5. The governor, with the advice and consent of the senate, may remove
78 any member only for substantial neglect of duty, inability to discharge the powers
79 and duties of office, gross misconduct or conviction of a felony or a crime involving
80 moral turpitude. Members of the commission also may be removed from office by
81 concurrent resolution of the general assembly signed by the governor. If such
82 resolution receives the vote of two-thirds or more of the membership of both
83 houses of the general assembly, the signature of the governor shall not be
84 necessary to effect removal. The office of any member of the commission who
85 moves from the congressional district from which the member was appointed shall
86 be deemed vacated upon such change of residence.

87 6. The commission shall elect biennially one of its members as the

88 chairman. The chairman may not succeed himself or herself after two years. No
89 member of the commission shall succeed as chairman any member of the same
90 political party as himself or herself. At least four members are necessary to
91 constitute a quorum, and at least four affirmative votes shall be required for any
92 action or recommendation of the commission.

93 7. No member or employee of the commission, during the person's term
94 of service, shall hold or be a candidate for any other public office.

95 8. In the event that a retired judge is appointed as a member of the
96 commission, the judge shall not serve as a special investigator while serving as
97 a member of the commission.

98 9. No member of the commission shall, during the member's term of
99 service or within one year thereafter:

100 (1) Be employed by the state or any political subdivision of the state;

101 (2) Be employed as a lobbyist;

102 (3) Serve on any other governmental board or commission;

103 (4) Be an officer of any political party or political organization;

104 (5) Permit the person's name to be used, or make contributions, in support
105 of or in opposition to any candidate or proposition;

106 (6) Participate in any way in any election campaign; except that a member
107 or employee of the commission shall retain the right to register and vote in any
108 election, to express the person's opinion privately on political subjects or
109 candidates, to participate in the activities of a civic, community, social, labor or
110 professional organization and to be a member of a political party.

111 10. Each member of the commission shall receive, as full compensation for
112 the member's services, the sum of one hundred dollars per day for each full day
113 actually spent on work of the commission, and the member's actual and necessary
114 expenses incurred in the performance of the member's official duties.

115 11. The commission shall appoint an executive director who shall serve
116 subject to the supervision of and at the pleasure of the commission, but in no
117 event for more than six years. The executive director shall be responsible for the
118 administrative operations of the commission and perform such other duties as
119 may be delegated or assigned to the director by law or by rule of the
120 commission. The executive director shall employ staff and retain such contract
121 services as the director deems necessary, within the limits authorized by
122 appropriations by the general assembly.

123 12. Beginning on January 1, 1993, all lobbyist registration and
124 expenditure reports filed pursuant to section 105.473, financial interest
125 statements filed pursuant to subdivision (1) of section 105.489, and campaign

126 finance disclosure reports filed other than with election authorities or local
127 election authorities as provided by section 130.026, RSMo, shall be filed with the
128 commission.

129 13. Within sixty days of the initial meeting of the first commission
130 appointed, the commission shall obtain from the clerk of the supreme court or the
131 state courts administrator a list of retired appellate and circuit court judges who
132 did not leave the judiciary as a result of being defeated in an election. The
133 executive director shall determine those judges who indicate their desire to serve
134 as special investigators and to investigate any and all complaints referred to
135 them by the commission. The executive director shall maintain an updated list
136 of those judges qualified and available for appointment to serve as special
137 investigators. Such list shall be updated at least annually. The commission shall
138 refer complaints to such special investigators on that list on a rotating schedule
139 which ensures a random assignment of each special investigator. Each special
140 investigator shall receive only one unrelated investigation at a time and shall not
141 be assigned to a second or subsequent investigation until all other eligible
142 investigators on the list have been assigned to an investigation. In the event that
143 no special investigator is qualified or available to conduct a particular
144 investigation, the commission may appoint a special investigator to conduct such
145 particular investigation.

146 14. The commission shall have the following duties and responsibilities
147 relevant to the impartial and effective enforcement of sections 105.450 to 105.496
148 and chapter 130, RSMo, as provided in sections 105.955 to 105.963:

149 (1) Receive and review complaints regarding alleged violation of sections
150 105.450 to 105.496 and chapter 130, RSMo, conduct initial reviews and
151 investigations regarding such complaints as provided herein; refer complaints to
152 appropriate prosecuting authorities and appropriate disciplinary authorities along
153 with recommendations for sanctions; and initiate judicial proceedings as allowed
154 by sections 105.955 to 105.963;

155 (2) Review and **[audit] investigate** any reports and statements required
156 by the campaign finance disclosure laws contained in chapter 130, RSMo, and
157 financial interest disclosure laws or lobbyist registration and reporting laws as
158 provided by sections 105.470 to 105.492, for timeliness, accuracy and
159 completeness of content as provided in sections 105.955 to 105.963;

160 (3) **Conduct investigations as provided in subsection 2 of section**
161 **105.959;**

162 (4) Develop appropriate systems to file and maintain an index of all such
163 reports and statements to facilitate public access to such information, except as

164 may be limited by confidentiality requirements otherwise provided by law,
165 including cross-checking of information contained in such statements and
166 reports. The commission may enter into contracts with the appropriate filing
167 officers to effectuate such system. Such filing officers shall cooperate as
168 necessary with the commission as reasonable and necessary to effectuate such
169 purposes;

170 [(4)] (5) Provide information and assistance to lobbyists, elected and
171 appointed officials, and employees of the state and political subdivisions in
172 carrying out the provisions of sections 105.450 to 105.496 and chapter 130, RSMo;

173 [(5)] (6) Make recommendations to the governor and general assembly
174 or any state agency on the need for further legislation with respect to the ethical
175 conduct of public officials and employees and to advise state and local government
176 in the development of local government codes of ethics and methods of disclosing
177 conflicts of interest as the commission may deem appropriate to promote high
178 ethical standards among all elected and appointed officials or employees of the
179 state or any political subdivision thereof and lobbyists;

180 [(6)] (7) Render advisory opinions as provided by this section;

181 [(7)] (8) Promulgate rules relating to the provisions of sections 105.955
182 to 105.963 and chapter 130, RSMo. All rules and regulations issued by the
183 commission shall be prospective only in operation;

184 [(8)] (9) Request and receive from the officials and entities identified in
185 subdivision (6) of section 105.450 designations of decision-making public servants.

186 15. In connection with such powers provided by sections 105.955 to
187 105.963 and chapter 130, RSMo, the commission may:

188 (1) Subpoena witnesses and compel their attendance and
189 testimony. Subpoenas shall be served and enforced in the same manner provided
190 by section 536.077, RSMo, **except that during an investigation, the**
191 **commission may delegate the power to issue subpoenas to the executive**
192 **director;**

193 (2) Administer oaths and affirmations;

194 (3) Take evidence and require by subpoena duces tecum the production of
195 books, papers, and other records relating to any matter being investigated or to
196 the performance of the commission's duties or exercise of its powers. Subpoenas
197 duces tecum shall be served and enforced in the same manner provided by section
198 536.077, RSMo, **except that during an investigation, the commission may**
199 **delegate the power to issue subpoenas duces tecum to the executive**
200 **director;**

201 (4) Employ such personnel, including legal counsel, and contract for

202 services including legal counsel, within the limits of its appropriation, as it deems
203 necessary provided such legal counsel, either employed or contracted, represents
204 the Missouri ethics commission before any state agency or before the courts at the
205 request of the Missouri ethics commission. Nothing in this section shall limit the
206 authority of the Missouri ethics commission as provided for in subsection 2 of
207 section 105.961; and

208 (5) Obtain information from any department, division or agency of the
209 state or any political subdivision reasonably calculated to lead to the discovery
210 of evidence which will reasonably assist the commission in carrying out the duties
211 prescribed in sections 105.955 to 105.963 and chapter 130, RSMo.

212 16. (1) Upon written request for an advisory opinion received by the
213 commission, and if the commission determines that the person requesting the
214 opinion would be directly affected by the application of law to the facts presented
215 by the requesting person, the commission shall issue a written opinion advising
216 the person who made the request, in response to the person's particular request,
217 regarding any issue that the commission can receive a complaint on pursuant to
218 section 105.957. The commission may decline to issue a written opinion by a vote
219 of four members and shall provide to the requesting person the reason for the
220 refusal in writing. The commission shall give an approximate time frame as to
221 when the written opinion shall be issued. Such advisory opinions shall be issued
222 no later than ninety days from the date of receipt by the commission. Such
223 requests and advisory opinions, deleting the name and identity of the requesting
224 person, shall be compiled and published by the commission on at least an annual
225 basis. Advisory opinions issued by the commission shall be maintained and made
226 available for public inspection and copying at the office of the commission during
227 normal business hours. Any advisory opinion or portion of an advisory opinion
228 rendered pursuant to this subsection shall be withdrawn by the commission if,
229 after hearing thereon, the joint committee on administrative rules finds that such
230 advisory opinion is beyond or contrary to the statutory authority of the
231 commission or is inconsistent with the legislative intent of any law enacted by the
232 general assembly, and after the general assembly, by concurrent resolution, votes
233 to adopt the findings and conclusions of the joint committee on administrative
234 rules. Any such concurrent resolution adopted by the general assembly shall be
235 published at length by the commission in its publication of advisory opinions of
236 the commission next following the adoption of such resolution, and a copy of such
237 concurrent resolution shall be maintained by the commission, along with the
238 withdrawn advisory opinion, in its public file of advisory opinions. The
239 commission shall also send a copy of such resolution to the person who originally

240 requested the withdrawn advisory opinion. Any advisory opinion issued by the
241 ethics commission shall act as legal direction to any person requesting such
242 opinion and no person shall be liable for relying on the opinion and it shall act
243 as a defense of justification against prosecution. An advisory opinion of the
244 commission shall not be withdrawn unless:

- 245 (a) The authorizing statute is declared unconstitutional;
246 (b) The opinion goes beyond the power authorized by statute; or
247 (c) The authorizing statute is changed to invalidate the opinion.
- 248 (2) Upon request, the attorney general shall give the attorney general's
249 opinion, without fee, to the commission, any elected official of the state or any
250 political subdivision, any member of the general assembly, or any director of any
251 department, division or agency of the state, upon any question of law regarding
252 the effect or application of sections 105.450 to 105.496, or chapter 130,
253 RSMo. Such opinion need be in writing only upon request of such official,
254 member or director, and in any event shall be rendered within sixty days [that]
255 **after** such request is delivered to the attorney general.

256 17. The state auditor and the state auditor's duly authorized employees
257 who have taken the oath of confidentiality required by section 29.070, RSMo, may
258 audit the commission and in connection therewith may inspect materials relating
259 to the functions of the commission. Such audit shall include a determination of
260 whether appropriations were spent within the intent of the general assembly, but
261 shall not extend to review of any file or document pertaining to any particular
262 investigation, audit or review by the commission, an investigator or any staff or
263 person employed by the commission or under the supervision of the commission
264 or an investigator. The state auditor and any employee of the state auditor shall
265 not disclose the identity of any person who is or was the subject of an
266 investigation by the commission and whose identity is not public information as
267 provided by law.

268 18. From time to time but no more frequently than annually the
269 commission may request the officials and entities described in subdivision (6) of
270 section 105.450 to identify for the commission in writing those persons associated
271 with such office or entity which such office or entity has designated as a
272 decision-making public servant. Each office or entity delineated in subdivision
273 (6) of section 105.450 receiving such a request shall identify those so designated
274 within thirty days of the commission's request.

105.957. 1. The commission shall receive any complaints alleging
2 violation of the provisions of:

- 3 (1) The requirements imposed on lobbyists by sections 105.470 to 105.478;

4 (2) The financial interest disclosure requirements contained in sections
5 105.483 to 105.492;

6 (3) The campaign finance disclosure requirements contained in chapter
7 130, RSMo;

8 (4) Any code of conduct promulgated by any department, division or
9 agency of state government, or by state institutions of higher education, or by
10 executive order;

11 (5) The conflict of interest laws contained in sections 105.450 to 105.468
12 and section 171.181, RSMo; and

13 (6) The provisions of the constitution or state statute or order, ordinance
14 or resolution of any political subdivision relating to the official conduct of officials
15 or employees of the state and political subdivisions.

16 2. Complaints filed with the commission shall be in writing and filed only
17 by a natural person. The complaint shall contain all facts known by the
18 complainant that have given rise to the complaint and the complaint shall be
19 sworn to, under penalty of perjury, by the complainant. No complaint shall be
20 investigated unless the complaint alleges facts which, if true, fall within the
21 jurisdiction of the commission. Within five days after receipt [of a complaint] by
22 the commission **of a complaint which is properly signed and notarized,**
23 **and which alleges facts which, if true, fall within the jurisdiction of the**
24 **commission,** a copy of the complaint, including the name of the complainant,
25 shall be delivered to the alleged violator.

26 3. No complaint shall be investigated which concerns alleged criminal
27 conduct which allegedly occurred previous to the period of time allowed by law for
28 criminal prosecution for such conduct. The commission may refuse to investigate
29 any conduct which is the subject of civil or criminal litigation. The commission,
30 its executive director or an investigator shall not investigate any complaint
31 concerning conduct which is not criminal in nature which occurred more than two
32 years prior to the date of the complaint. A complaint alleging misconduct on the
33 part of a candidate for public office, other than those alleging failure to file the
34 appropriate financial interest statements or campaign finance disclosure reports,
35 shall not be accepted by the commission within sixty days prior to the primary
36 election at which such candidate is running for office, and until after the general
37 election.

38 4. If the commission finds that any complaint is frivolous in nature [or
39 finds no probable cause to believe that there has been a violation], the
40 commission shall dismiss the case. For purposes of this subsection, "frivolous"
41 shall mean a complaint clearly lacking any basis in fact or law. Any person who

42 submits a frivolous complaint shall be liable for actual and compensatory
43 damages to the alleged violator for holding the alleged violator before the public
44 in a false light. If the commission finds that a complaint is frivolous [or that
45 there is not probable cause to believe there has been a violation], the commission
46 shall issue a public report to the complainant and the alleged violator stating
47 with particularity its reasons for dismissal of the complaint. Upon such issuance,
48 the complaint and all materials relating to the complaint shall be a public record
49 as defined in chapter 610, RSMo.

50 5. Complaints which allege violations as described in this section which
51 are filed with the commission shall be handled as provided by section 105.961.

105.959. 1. The executive director of the commission, under the
2 supervision of the commission, shall review reports and statements filed with the
3 commission or other appropriate officers pursuant to sections 105.470, 105.483
4 to 105.492, and chapter 130, RSMo, for completeness, accuracy and timeliness of
5 filing of the reports or statements **and any records relating to the reports**
6 **or statements**, and upon review, if there are reasonable grounds to believe that
7 a violation has occurred, shall conduct an **[audit] investigation** of such reports,
8 **[and] statements, and records and assign a special investigator following**
9 **the provisions of subsection 1 of section 105.961.** [All investigations by the
10 executive director of an alleged violation shall be strictly confidential with the
11 exception of notification of the commission and the complainant or the person
12 under investigation. All investigations by the executive director shall be limited
13 to the information contained in the reports or statements. The commission shall
14 notify the complainant or the person under investigation, by registered mail,
15 within five days of the decision to conduct such investigation. Revealing any such
16 confidential investigation information shall be cause for removal or dismissal of
17 the executive director or a commission member or employee.]

18 2. **(1) If there are reasonable grounds to believe that a violation**
19 **has occurred and after the commission unanimously votes to proceed**
20 **with all current members voting, the executive director shall, without**
21 **receipt of a complaint, conduct an independent investigation of any**
22 **potential violations of the provisions of:**

23 **(a) The requirements imposed on lobbyists by section 105.470 to**
24 **105.478;**

25 **(b) The financial interest disclosure requirements contained in**
26 **sections 105.483 to 105.492;**

27 **(c) The campaign finance disclosure requirements contained in**
28 **chapter 130;**

29 **(d) Any code of conduct promulgated by any department,**
30 **division, or agency of state government, or by state institutions of**
31 **higher education, or by executive order;**

32 **(e) The conflict of interest laws contained in sections 105.450 to**
33 **105.468 and section 171.181; and**

34 **(f) The provisions of the constitution or state statute or order,**
35 **ordinance, or resolution of any political subdivision relating to the**
36 **official conduct of officials or employees of the state and political**
37 **subdivisions.**

38 **(2) The commission shall notify the person under investigation**
39 **under this section, by registered mail, within five days of the decision**
40 **to conduct such investigation and assign a special investigator**
41 **following the provisions of subsection 1 of section 105.961.**

42 **(3) If an investigation conducted under this subsection fails to**
43 **establish reasonable grounds to believe that a violation has occurred,**
44 **the investigation shall be terminated and the person who had been**
45 **under investigation shall be notified of the reasons for the disposition**
46 **of the complaint.**

47 **3.** Upon findings of the appropriate filing officer which are reported to the
48 commission in accordance with the provisions of section 130.056, RSMo, the
49 executive director shall [audit] **investigate** disclosure reports, statements and
50 records pertaining to such findings within a reasonable time after receipt of the
51 reports from the appropriate filing officer.

52 **[3.** Upon a sworn written complaint of any natural person filed with the
53 commission pursuant to section 105.957, the commission shall audit and
54 investigate alleged violations. Within sixty days after receipt of a sworn written
55 complaint alleging a violation, the executive director shall notify the complainant
56 in writing of the action, if any, the executive director has taken and plans to take
57 on the complaint. If an investigation conducted pursuant to this subsection fails
58 to establish reasonable grounds to believe that a violation has occurred, the
59 investigation shall be terminated and the complainant and the person who had
60 been under investigation shall be notified of the reasons for the disposition of the
61 complaint.]

62 **4.** The commission may make such investigations and inspections within
63 or outside of this state as are necessary to determine compliance.

64 **5.** [If, during an audit or investigation, the commission determines that
65 a formal investigation is necessary, the commission shall assign the investigation
66 to a special investigator in the manner provided by subsection 1 of section

67 105.961.

68 6.] After completion of an [audit or] investigation, the executive director
69 shall provide a detailed report of such [audit or] investigation to the
70 commission. Upon determination that there are reasonable grounds to believe
71 that a person has violated the requirements of sections 105.470, 105.483 to
72 105.492, or chapter 130, RSMo, by a vote of four members of the commission, the
73 commission may refer the report with the recommendations of the commission to
74 the appropriate prosecuting authority together with [a copy of the audit and] the
75 details of the investigation by the commission as is provided in subsection 2 of
76 section 105.961.

77 **6. All investigations by the executive director of an alleged**
78 **violation shall be strictly confidential with the exception of notification**
79 **of the commission and the complainant and the person under**
80 **investigation. Revealing any such confidential investigation**
81 **information shall be cause for removal or dismissal of the executive**
82 **director or a commission member or employee.**

105.961. 1. Upon receipt of a complaint as described by section 105.957
2 **or upon notification by the commission of an investigation under**
3 **subdivision (2) of subsection 1 of section 105.959**, the commission shall
4 assign the complaint **or investigation** to a special investigator, who may be a
5 commission employee, who shall investigate and determine the merits of the
6 complaint **or investigation**. Within ten days of such assignment, the special
7 investigator shall review such complaint and disclose, in writing, to the
8 commission any conflict of interest which the special investigator has or might
9 have with respect to the investigation and subject thereof. Within [one hundred
10 twenty] **ninety** days of receipt of the complaint from the commission, the special
11 investigator shall submit the special investigator's report to the commission. The
12 commission, after review of such report, shall determine:

13 (1) That there is reasonable grounds for belief that a violation has
14 occurred; or

15 (2) That there are no reasonable grounds for belief that a violation exists
16 and the complaint **or investigation** [should] **shall** be dismissed; or

17 (3) That additional time is necessary to complete the investigation, and
18 the status and progress of the investigation to date. The commission, in its
19 discretion, may allow the investigation to proceed for **no more than two**
20 additional successive periods of [one hundred twenty] **ninety** days each, pending
21 reports regarding the status and progress of the investigation at the end of each
22 such period.

23 2. When the commission concludes, based on the report from the special
24 investigator, or based on an **[audit] investigation** conducted pursuant to section
25 105.959, that there are reasonable grounds to believe that a violation of any
26 criminal law has occurred, and if the commission believes that criminal
27 prosecution would be appropriate upon a vote of four members of the commission,
28 the commission shall refer the report to the Missouri office of prosecution
29 services, prosecutors coordinators training council established in section 56.760,
30 RSMo, which shall submit a panel of five attorneys for recommendation to the
31 court having criminal jurisdiction, for appointment of an attorney to serve as a
32 special prosecutor; except that, the attorney general of Missouri or any assistant
33 attorney general shall not act as such special prosecutor. The court shall then
34 appoint from such panel a special prosecutor pursuant to section 56.110, RSMo,
35 who shall have all the powers provided by section 56.130, RSMo. The court shall
36 allow a reasonable and necessary attorney's fee for the services of the special
37 prosecutor. Such fee shall be assessed as costs if a case is filed, or ordered by the
38 court if no case is filed, and paid together with all other costs in the proceeding
39 by the state, in accordance with rules and regulations promulgated by the state
40 courts administrator, subject to funds appropriated to the office of administration
41 for such purposes. If the commission does not have sufficient funds to pay a
42 special prosecutor, the commission shall refer the case to the prosecutor or
43 prosecutors having criminal jurisdiction. If the prosecutor having criminal
44 jurisdiction is not able to prosecute the case due to a conflict of interest, the court
45 may appoint a special prosecutor, paid from county funds, upon appropriation by
46 the county or the attorney general to investigate and, if appropriate, prosecute
47 the case. The special prosecutor or prosecutor shall commence an action based
48 on the report by the filing of an information or seeking an indictment within sixty
49 days of the date of such prosecutor's appointment, or shall file a written
50 statement with the commission explaining why criminal charges should not be
51 sought. If the special prosecutor or prosecutor fails to take either action required
52 by this subsection, upon request of the commission, a new special prosecutor, who
53 may be the attorney general, shall be appointed. The report may also be referred
54 to the appropriate disciplinary authority over the person who is the subject of the
55 report.

56 3. When the commission concludes, based on the report from the special
57 investigator or based on an **[audit] investigation** conducted pursuant to section
58 105.959, that there are reasonable grounds to believe that a violation of any law
59 has occurred which is not a violation of criminal law or that criminal prosecution
60 is not appropriate, the commission shall conduct a hearing which shall be a closed

61 meeting and not open to the public. The hearing shall be conducted pursuant to
62 the procedures provided by sections 536.063 to 536.090, RSMo, and shall be
63 considered to be a contested case for purposes of such sections. The commission
64 shall determine, in its discretion, whether or not that there is probable cause that
65 a violation has occurred. If the commission determines, by a vote of at least four
66 members of the commission, that probable cause exists that a violation has
67 occurred, the commission may refer its findings and conclusions to the
68 appropriate disciplinary authority over the person who is the subject of the
69 report, as described in subsection [7] 8 of this section. [After the commission
70 determines by a vote of at least four members of the commission that probable
71 cause exists that a violation has occurred, and the commission has referred the
72 findings and conclusions to the appropriate disciplinary authority over the person
73 subject of the report, the subject of the report may appeal the determination of
74 the commission to the administrative hearing commission. Such appeal shall stay
75 the action of the Missouri ethics commission. Such appeal shall be filed not later
76 than the fourteenth day after the subject of the commission's action receives
77 actual notice of the commission's action.]

78 4. If the appropriate disciplinary authority receiving a report from the
79 commission pursuant to subsection 3 of this section fails to follow, within sixty
80 days of the receipt of the report, the recommendations contained in the report, or
81 if the commission determines, by a vote of at least four members of the
82 commission that some action other than referral for criminal prosecution or for
83 action by the appropriate disciplinary authority would be appropriate, the
84 commission shall take any one or more of the following actions:

85 (1) Notify the person to cease and desist violation of any provision of law
86 which the report concludes was violated and that the commission may seek
87 judicial enforcement of its decision pursuant to subsection 5 of this section;

88 (2) Notify the person of the requirement to file, amend or correct any
89 report, statement, or other document or information required by sections 105.473,
90 105.483 to 105.492, or chapter 130, RSMo, and that the commission may seek
91 judicial enforcement of its decision pursuant to subsection 5 of this section; and

92 (3) File the report with the executive director to be maintained as a public
93 document; or

94 (4) Issue a letter of concern or letter of reprimand to the person, which
95 would be maintained as a public document; or

96 (5) Issue a letter that no further action shall be taken, which would be
97 maintained as a public document; or

98 (6) Through reconciliation agreements or [civil action] **action of the**

99 **commission**, the power to seek fees for violations in an amount not greater than
100 one thousand dollars or double the amount involved in the violation.

101 5. Upon vote of at least four members, the commission may initiate formal
102 judicial proceedings **in the circuit court of Cole County** seeking to obtain any
103 of the following orders:

104 (1) Cease and desist violation of any provision of sections 105.450 to
105 105.496, or chapter 130, RSMo, or sections 105.955 to 105.963;

106 (2) Pay any civil penalties required by sections 105.450 to 105.496 or
107 chapter 130, RSMo;

108 (3) File any reports, statements, or other documents or information
109 required by sections 105.450 to 105.496, or chapter 130, RSMo; or

110 (4) Pay restitution for any unjust enrichment the violator obtained as a
111 result of any violation of any criminal statute as described in subsection 6 of this
112 section. [The Missouri ethics commission shall give actual notice to the subject
113 of the complaint of the proposed action as set out in this section. The subject of
114 the complaint may appeal the action of the Missouri ethics commission, other
115 than a referral for criminal prosecution, to the administrative hearing
116 commission. Such appeal shall stay the action of the Missouri ethics
117 commission. Such appeal shall be filed no later than fourteen days after the
118 subject of the commission's actions receives actual notice of the commission's
119 actions.]

120 6. **After the commission determines by a vote of at least four**
121 **members of the commission that a violation has occurred, other than**
122 **a referral for criminal prosecution, and the commission has referred**
123 **the findings and conclusions to the appropriate disciplinary authority**
124 **over the person who is the subject of the report, or has taken an action**
125 **under subsection 4 of this section, the subject of the report may appeal**
126 **the determination of the commission to the circuit court of Cole**
127 **County. The court shall conduct a de novo review of the determination**
128 **of the commission. Such appeal shall stay the action of the Missouri**
129 **ethics commission. Such appeal shall be filed not later than the**
130 **fourteenth day after the subject of the commission's action receives**
131 **actual notice of the commission's action. If a petition for judicial**
132 **review of a final order is not filed, the commission may file a certified**
133 **copy of the final order with the circuit court of Cole County. When any**
134 **order for fees under subsection 4 of this section becomes final, the**
135 **commission may file a certified copy of the final order with the circuit**
136 **court of Cole County. The order so filed shall have the same effect as**

137 **a judgment of the court and may be recorded, enforced, or satisfied in**
138 **the same manner as a judgment of the court.**

139 [6.] 7. In the proceeding in circuit court, the commission may seek
140 restitution against any person who has obtained unjust enrichment as a result
141 of violation of any provision of sections 105.450 to 105.496, or chapter 130, RSMo,
142 and may recover on behalf of the state or political subdivision with which the
143 alleged violator is associated, damages in the amount of any unjust enrichment
144 obtained and costs and attorney's fees as ordered by the court. **If a petition for**
145 **judicial review of a final order is not filed in accordance with**
146 **subsection 5 of this section, the commission may file a certified copy of**
147 **the final order with the circuit court of Cole County. The order so filed**
148 **has the same effect as a judgment of the court and may be recorded,**
149 **enforced, or satisfied in the same manner as a judgment of the court.**

150 [7.] 8. The appropriate disciplinary authority to whom a report shall be
151 sent pursuant to subsection 2 or 3 of this section shall include, but not be limited
152 to, the following:

153 (1) In the case of a member of the general assembly, the ethics committee
154 of the house of which the subject of the report is a member;

155 (2) In the case of a person holding an elective office or an appointive office
156 of the state, if the alleged violation is an impeachable offense, the report shall be
157 referred to the ethics committee of the house of representatives;

158 (3) In the case of a person holding an elective office of a political
159 subdivision, the report shall be referred to the governing body of the political
160 subdivision;

161 (4) In the case of any officer or employee of the state or of a political
162 subdivision, the report shall be referred to the person who has immediate
163 supervisory authority over the employment by the state or by the political
164 subdivision of the subject of the report;

165 (5) In the case of a judge of a court of law, the report shall be referred to
166 the commission on retirement, removal and discipline, or if the inquiry involves
167 an employee of the judiciary to the applicable presiding judge;

168 (6) In the case of a person holding an appointive office of the state, if the
169 alleged violation is not an impeachable offense, the report shall be referred to the
170 governor;

171 (7) In the case of a statewide elected official, the report shall be referred
172 to the attorney general;

173 (8) In a case involving the attorney general, the report shall be referred
174 to the prosecuting attorney of Cole County.

175 [8.] 9. The special investigator having a complaint referred to the special
176 investigator by the commission shall have the following powers:

177 (1) To request and shall be given access to information in the possession
178 of any person or agency which the special investigator deems necessary for the
179 discharge of the special investigator's responsibilities;

180 (2) To examine the records and documents of any person or agency, unless
181 such examination would violate state or federal law providing for confidentiality;

182 (3) To administer oaths and affirmations;

183 (4) Upon refusal by any person to comply with a request for information
184 relevant to an investigation, an investigator may issue a subpoena for any person
185 to appear and give testimony, or for a subpoena duces tecum to produce
186 documentary or other evidence which the investigator deems relevant to a matter
187 under the investigator's inquiry. The subpoenas and subpoenas duces tecum may
188 be enforced by applying to a judge of the circuit court of Cole County or any
189 county where the person or entity that has been subpoenaed resides or may be
190 found, for an order to show cause why the subpoena or subpoena duces tecum
191 should not be enforced. The order and a copy of the application therefor shall be
192 served in the same manner as a summons in a civil action, and if, after hearing,
193 the court determines that the subpoena or subpoena duces tecum should be
194 sustained and enforced, the court shall enforce the subpoena or subpoena duces
195 tecum in the same manner as if it had been issued by the court in a civil action;
196 and

197 (5) To request from the commission such investigative, clerical or other
198 staff assistance or advancement of other expenses which are necessary and
199 convenient for the proper completion of an investigation. Within the limits of
200 appropriations to the commission, the commission may provide such assistance,
201 whether by contract to obtain such assistance or from staff employed by the
202 commission, or may advance such expenses.

203 [9.] 10. (1) Any retired judge may request in writing to have the judge's
204 name removed from the list of special investigators subject to appointment by the
205 commission or may request to disqualify himself or herself from any
206 investigation. Such request shall include the reasons for seeking removal;

207 (2) By vote of four members of the commission, the commission may
208 disqualify a judge from a particular investigation or may permanently remove the
209 name of any retired judge from the list of special investigators subject to
210 appointment by the commission.

211 [10.] 11. Any person who is the subject of any investigation pursuant to
212 this section shall be entitled to be represented by counsel at any proceeding

213 before the special investigator or the commission.

214 [11.] 12. The provisions of sections 105.957, 105.959 and 105.961 are in
215 addition to other provisions of law under which any remedy or right of appeal or
216 objection is provided for any person, or any procedure provided for inquiry or
217 investigation concerning any matter. The provisions of this section shall not be
218 construed to limit or affect any other remedy or right of appeal or objection.

219 [12.] 13. No person shall be required to make or file a complaint to the
220 commission as a prerequisite for exhausting the person's administrative remedies
221 before pursuing any civil cause of action allowed by law.

222 [13.] 14. If, in the opinion of the commission, the complaining party was
223 motivated by malice or reason contrary to the spirit of any law on which such
224 complaint was based, in filing the complaint without just cause, this finding shall
225 be reported to appropriate law enforcement authorities. Any person who
226 knowingly files a complaint without just cause, or with malice, is guilty of a class
227 A misdemeanor.

228 [14.] 15. A respondent party who prevails in a formal judicial action
229 brought by the commission shall be awarded those reasonable fees and expenses
230 incurred by that party in the formal judicial action, unless the court finds that
231 the position of the commission was substantially justified or that special
232 circumstances make such an award unjust.

233 [15.] 16. The special investigator and members and staff of the
234 commission shall maintain confidentiality with respect to all matters concerning
235 a complaint [until and if a report is filed with the commission], with the
236 exception of communications with any person which are necessary to the
237 investigation. [The report filed with the commission resulting from a complaint
238 acted upon under the provisions of this section shall not contain the name of the
239 complainant or other person providing information to the investigator, if so
240 requested in writing by the complainant or such other person.] Any person who
241 violates the confidentiality requirements imposed by this section or subsection 17
242 of section 105.955 required to be confidential is guilty of a class A misdemeanor
243 and shall be subject to removal from or termination of employment by the
244 commission.

245 [16.] 17. Any judge of the court of appeals or circuit court who ceases to
246 hold such office by reason of the judge's retirement and who serves as a special
247 investigator pursuant to this section shall receive annual compensation, salary
248 or retirement for such services at the rates of compensation provided for senior
249 judges by subsections 1, 2 and 4 of section 476.682, RSMo. Such retired judges
250 shall by the tenth day of each month following any month in which the judge

251 provided services pursuant to this section certify to the commission and to the
252 state courts administrator the amount of time engaged in such services by hour
253 or fraction thereof, the dates thereof, and the expenses incurred and allowable
254 pursuant to this section. The commission shall then issue a warrant to the state
255 treasurer for the payment of the salary and expenses to the extent, and within
256 limitations, provided for in this section. The state treasurer upon receipt of such
257 warrant shall pay the same out of any appropriations made for this purpose on
258 the last day of the month during which the warrant was received by the state
259 treasurer.

105.966. 1. [Except as provided in subsection 2 of this section,] The ethics
2 commission shall complete and make determinations pursuant to subsection 1 of
3 section 105.961 on all complaint investigations[, except those complaint
4 investigations assigned to a retired judge,] within ninety days of initiation.

5 2. [The commission may file a petition in the Cole County circuit court to
6 request an additional ninety days for investigation upon proving by a
7 preponderance of the evidence that additional time is needed. Upon filing the
8 petition, the ninety-day period shall be tolled until the court determines whether
9 additional time is needed.

10 3. The hearing shall be held in camera before the Cole County circuit
11 court and all records of the proceedings shall be closed.

12 4. The provisions of this section shall apply to all ongoing complaint
13 investigations on July 13, 1999.

14 5.] Any complaint investigation not completed and decided upon by the
15 ethics commission within the time allowed by this section shall be deemed to not
16 have been a violation.

130.021. 1. Every committee shall have a treasurer who, except as
2 provided in subsection 10 of this section, shall be a resident of this state and
3 reside in the district or county in which the committee sits. A committee may
4 also have a deputy treasurer who, except as provided in subsection 10 of this
5 section, shall be a resident of this state and [reside in the district or county in
6 which the committee sits, to] serve in the capacity of committee treasurer in the
7 event the committee treasurer is unable for any reason to perform the treasurer's
8 duties.

9 2. Every candidate for offices listed in subsection 1 of section 130.016 who
10 has not filed a statement of exemption pursuant to that subsection and every
11 candidate for offices listed in subsection 6 of section 130.016 who is not excluded
12 from filing a statement of organization and disclosure reports pursuant to
13 subsection 6 of section 130.016 shall form a candidate committee and appoint a

14 treasurer. Thereafter, all contributions on hand and all further contributions
15 received by such candidate and any of the candidate's own funds to be used in
16 support of the person's candidacy shall be deposited in a candidate committee
17 depository account established pursuant to the provisions of subsection 4 of this
18 section, and all expenditures shall be made through the candidate, treasurer or
19 deputy treasurer of the person's candidate committee. Nothing in this chapter
20 shall prevent a candidate from appointing himself or herself as a committee of
21 one and serving as the person's own treasurer, maintaining the candidate's own
22 records and filing all the reports and statements required to be filed by the
23 treasurer of a candidate committee.

24 3. A candidate who has more than one candidate committee supporting
25 the person's candidacy shall designate one of those candidate committees as the
26 committee responsible for consolidating the aggregate contributions to all such
27 committees under the candidate's control and direction as required by section
28 130.041.

29 4. (1) Every committee shall have a single official fund depository within
30 this state which shall be a federally or state-chartered bank, a federally or
31 state-chartered savings and loan association, or a federally or state-chartered
32 credit union in which the committee shall open and thereafter maintain at least
33 one official depository account in its own name. An "official depository account"
34 shall be a checking account or some type of negotiable draft or negotiable order
35 of withdrawal account, and the official fund depository shall, regarding an official
36 depository account, be a type of financial institution which provides a record of
37 deposits, canceled checks or other canceled instruments of withdrawal evidencing
38 each transaction by maintaining copies within this state of such instruments and
39 other transactions. All contributions which the committee receives in money,
40 checks and other negotiable instruments shall be deposited in a committee's
41 official depository account. Contributions shall not be accepted and expenditures
42 shall not be made by a committee except by or through an official depository
43 account and the committee treasurer, deputy treasurer or
44 candidate. Contributions received by a committee shall not be commingled with
45 any funds of an agent of the committee, a candidate or any other person, except
46 that contributions from a candidate of the candidate's own funds to the person's
47 candidate committee shall be deposited to an official depository account of the
48 person's candidate committee. No expenditure shall be made by a committee
49 when the office of committee treasurer is vacant except that when the office of a
50 candidate committee treasurer is vacant, the candidate shall be the treasurer
51 until the candidate appoints a new treasurer.

52 (2) A committee treasurer, deputy treasurer or candidate may withdraw
53 funds from a committee's official depository account and deposit such funds in one
54 or more savings accounts in the committee's name in any bank, savings and loan
55 association or credit union within this state, and may also withdraw funds from
56 an official depository account for investment in the committee's name in any
57 certificate of deposit, bond or security. Proceeds from interest or dividends from
58 a savings account or other investment or proceeds from withdrawals from a
59 savings account or from the sale of an investment shall not be expended or
60 reinvested, except in the case of renewals of certificates of deposit, without first
61 redepositing such proceeds in an official depository account. Investments, other
62 than savings accounts, held outside the committee's official depository account at
63 any time during a reporting period shall be disclosed by description, amount, any
64 identifying numbers and the name and address of any institution or person in
65 which or through which it is held in an attachment to disclosure reports the
66 committee is required to file. Proceeds from an investment such as interest or
67 dividends or proceeds from its sale, shall be reported by date and amount. In the
68 case of the sale of an investment, the names and addresses of the persons
69 involved in the transaction shall also be stated. Funds held in savings accounts
70 and investments, including interest earned, shall be included in the report of
71 money on hand as required by section 130.041.

72 5. The treasurer or deputy treasurer acting on behalf of any person or
73 organization or group of persons which is a committee by virtue of the definitions
74 of committee in section 130.011 and any candidate who is not excluded from
75 forming a committee in accordance with the provisions of section 130.016 shall
76 file a statement of organization with the appropriate officer within twenty days
77 after the person or organization becomes a committee but no later than the date
78 for filing the first report required pursuant to the provisions of section
79 130.046. The statement of organization shall contain the following information:

80 (1) The name, mailing address and telephone number, if any, of the
81 committee filing the statement of organization. If the committee is deemed to be
82 affiliated with a connected organization as provided in subdivision (11) of section
83 130.011, the name of the connected organization, or a legally registered fictitious
84 name which reasonably identifies the connected organization, shall appear in the
85 name of the committee. If the committee is a candidate committee, the name of
86 the candidate shall be a part of the committee's name;

87 (2) The name, mailing address and telephone number of the candidate;

88 (3) The name, mailing address and telephone number of the committee
89 treasurer, and the name, mailing address and telephone number of its deputy

90 treasurer if the committee has named a deputy treasurer;

91 (4) The names, mailing addresses and titles of its officers, if any;

92 (5) The name and mailing address of any connected organizations with
93 which the committee is affiliated;

94 (6) The name and mailing address of its depository, and the name and
95 account number of each account the committee has in the depository. The
96 account number of each account shall be redacted prior to disclosing the
97 statement to the public;

98 (7) Identification of the major nature of the committee such as a candidate
99 committee, campaign committee, continuing committee, political party committee,
100 incumbent committee, or any other committee according to the definition of
101 committee in section 130.011;

102 (8) In the case of the candidate committee designated in subsection 3 of
103 this section, the full name and address of each other candidate committee which
104 is under the control and direction of the same candidate, together with the name,
105 address and telephone number of the treasurer of each such other committee;

106 (9) The name and office sought of each candidate supported or opposed by
107 the committee;

108 (10) The ballot measure concerned, if any, and whether the committee is
109 in favor of or opposed to such measure.

110 6. A committee may omit the information required in subdivisions (9) and
111 (10) of subsection 5 of this section if, on the date on which it is required to file a
112 statement of organization, the committee has not yet determined the particular
113 candidates or particular ballot measures it will support or oppose.

114 7. A committee which has filed a statement of organization and has not
115 terminated shall not be required to file another statement of organization, except
116 that when there is a change in any of the information previously reported as
117 required by subdivisions (1) to (8) of subsection 5 of this section an amended
118 statement of organization shall be filed within twenty days after the change
119 occurs, but no later than the date of the filing of the next report required to be
120 filed by that committee by section 130.046.

121 8. Upon termination of a committee, a termination statement indicating
122 dissolution shall be filed not later than ten days after the date of dissolution with
123 the appropriate officer or officers with whom the committee's statement of
124 organization was filed. The termination statement shall include: the distribution
125 made of any remaining surplus funds and the disposition of any deficits; and the
126 name, mailing address and telephone number of the individual responsible for
127 preserving the committee's records and accounts as required in section 130.036.

128 9. Any statement required by this section shall be signed and attested by
129 the committee treasurer or deputy treasurer, and by the candidate in the case of
130 a candidate committee.

131 10. A committee domiciled outside this state shall be required to file a
132 statement of organization and appoint a treasurer residing in this state and open
133 an account in a depository within this state; provided that either of the following
134 conditions prevails:

135 (1) The aggregate of all contributions received from persons domiciled in
136 this state exceeds twenty percent in total dollar amount of all funds received by
137 the committee in the preceding twelve months; or

138 (2) The aggregate of all contributions and expenditures made to support
139 or oppose candidates and ballot measures in this state exceeds one thousand five
140 hundred dollars in the current calendar year.

141 11. If a committee domiciled in this state receives a contribution of one
142 thousand five hundred dollars or more from any committee domiciled outside of
143 this state, the committee domiciled in this state shall file a disclosure report with
144 the commission. The report shall disclose the full name, mailing address,
145 telephone numbers and domicile of the contributing committee and the date and
146 amount of the contribution. The report shall be filed within forty-eight hours of
147 the receipt of such contribution if the contribution is received after the last
148 reporting date before the election.

149 12. Each legislative and senatorial district committee shall retain only one
150 address in the district it sits for the purpose of receiving contributions.

130.031. 1. No contribution of cash in an amount of more than one
2 hundred dollars shall be made by or accepted from any single contributor for any
3 election by a continuing committee, a campaign committee, a political party
4 committee, an exploratory committee or a candidate committee.

5 2. Except for expenditures from a petty cash fund which is established
6 and maintained by withdrawals of funds from the committee's depository account
7 and with records maintained pursuant to the record-keeping requirements of
8 section 130.036 to account for expenditures made from petty cash, each
9 expenditure of more than fifty dollars, except an in-kind expenditure, shall be
10 made by check drawn on the committee's depository and signed by the committee
11 treasurer, deputy treasurer or candidate. A single expenditure from a petty cash
12 fund shall not exceed fifty dollars, and the aggregate of all expenditures from a
13 petty cash fund during a calendar year shall not exceed the lesser of five
14 thousand dollars or ten percent of all expenditures made by the committee during
15 that calendar year. A check made payable to "cash" shall not be made except to

16 replenish a petty cash fund.

17 3. No contribution shall be made or accepted and no expenditure shall be
18 made or incurred, directly or indirectly, in a fictitious name, in the name of
19 another person, or by or through another person in such a manner as to conceal
20 the identity of the actual source of the contribution or the actual recipient and
21 purpose of the expenditure. Any person who receives contributions for a
22 committee shall disclose to that committee's treasurer, deputy treasurer or
23 candidate the recipient's own name and address and the name and address of the
24 actual source of each contribution such person has received for that
25 committee. Any person who makes expenditures for a committee shall disclose
26 to that committee's treasurer, deputy treasurer or candidate such person's own
27 name and address, the name and address of each person to whom an expenditure
28 has been made and the amount and purpose of the expenditures the person has
29 made for that committee.

30 4. No anonymous contribution of more than twenty-five dollars shall be
31 made by any person, and no anonymous contribution of more than twenty-five
32 dollars shall be accepted by any candidate or committee. If any anonymous
33 contribution of more than twenty-five dollars is received, it shall be returned
34 immediately to the contributor, if the contributor's identity can be ascertained,
35 and if the contributor's identity cannot be ascertained, the candidate, committee
36 treasurer or deputy treasurer shall immediately transmit that portion of the
37 contribution which exceeds twenty-five dollars to the state treasurer and it shall
38 escheat to the state.

39 5. The maximum aggregate amount of anonymous contributions which
40 shall be accepted in any calendar year by any committee shall be the greater of
41 five hundred dollars or one percent of the aggregate amount of all contributions
42 received by that committee in the same calendar year. If any anonymous
43 contribution is received which causes the aggregate total of anonymous
44 contributions to exceed the foregoing limitation, it shall be returned immediately
45 to the contributor, if the contributor's identity can be ascertained, and, if the
46 contributor's identity cannot be ascertained, the committee treasurer, deputy
47 treasurer or candidate shall immediately transmit the anonymous contribution
48 to the state treasurer to escheat to the state.

49 6. Notwithstanding the provisions of subsection 5 of this section,
50 contributions from individuals whose names and addresses cannot be ascertained
51 which are received from a fund-raising activity or event, such as defined in
52 section 130.011, shall not be deemed anonymous contributions, provided the
53 following conditions are met:

54 (1) There are twenty-five or more contributing participants in the activity
55 or event;

56 (2) The candidate, committee treasurer, deputy treasurer or the person
57 responsible for conducting the activity or event makes an announcement that it
58 is illegal for anyone to make or receive a contribution in excess of one hundred
59 dollars unless the contribution is accompanied by the name and address of the
60 contributor;

61 (3) The person responsible for conducting the activity or event does not
62 knowingly accept payment from any single person of more than one hundred
63 dollars unless the name and address of the person making such payment is
64 obtained and recorded pursuant to the record-keeping requirements of section
65 130.036;

66 (4) A statement describing the event shall be prepared by the candidate
67 or the treasurer of the committee for whom the funds were raised or by the
68 person responsible for conducting the activity or event and attached to the
69 disclosure report of contributions and expenditures required by section
70 130.041. The following information to be listed in the statement is in addition to,
71 not in lieu of, the requirements elsewhere in this chapter relating to the recording
72 and reporting of contributions and expenditures:

73 (a) The name and mailing address of the person or persons responsible for
74 conducting the event or activity and the name and address of the candidate or
75 committee for whom the funds were raised;

76 (b) The date on which the event occurred;

77 (c) The name and address of the location where the event occurred and the
78 approximate number of participants in the event;

79 (d) A brief description of the type of event and the fund-raising methods
80 used;

81 (e) The gross receipts from the event and a listing of the expenditures
82 incident to the event;

83 (f) The total dollar amount of contributions received from the event from
84 participants whose names and addresses were not obtained with such
85 contributions and an explanation of why it was not possible to obtain the names
86 and addresses of such participants;

87 (g) The total dollar amount of contributions received from contributing
88 participants in the event who are identified by name and address in the records
89 required to be maintained pursuant to section 130.036.

90 7. No candidate or committee in this state shall accept contributions from
91 any out-of-state committee unless the out-of-state committee from whom the

92 contributions are received has filed a statement of organization pursuant to
93 section 130.021 or has filed the reports required by sections 130.049 and 130.050,
94 whichever is applicable to that committee.

95 8. Any person publishing, circulating, or distributing any printed matter
96 relative to any candidate for public office or any ballot measure shall on the face
97 of the printed matter identify in a clear and conspicuous manner the person who
98 paid for the printed matter with the words "Paid for by" followed by the proper
99 identification of the sponsor pursuant to this section. For the purposes of this
100 section, "printed matter" shall be defined to include any pamphlet, circular,
101 handbill, sample ballot, advertisement, including advertisements in any
102 newspaper or other periodical, sign, including signs for display on motor vehicles,
103 or other imprinted or lettered material; but "printed matter" is defined to exclude
104 materials printed and purchased prior to May 20, 1982, if the candidate or
105 committee can document that delivery took place prior to May 20, 1982; any sign
106 personally printed and constructed by an individual without compensation from
107 any other person and displayed at that individual's place of residence or on that
108 individual's personal motor vehicle; any items of personal use given away or sold,
109 such as campaign buttons, pins, pens, pencils, book matches, campaign jewelry,
110 or clothing, which is paid for by a candidate or committee which supports a
111 candidate or supports or opposes a ballot measure and which is obvious in its
112 identification with a specific candidate or committee and is reported as required
113 by this chapter; and any news story, commentary, or editorial printed by a
114 regularly published newspaper or other periodical without charge to a candidate,
115 committee or any other person.

116 (1) In regard to any printed matter paid for by a candidate from the
117 candidate's personal funds, it shall be sufficient identification to print the first
118 and last name by which the candidate is known.

119 (2) In regard to any printed matter paid for by a committee, it shall be
120 sufficient identification to print the name of the committee as required to be
121 registered by subsection 5 of section 130.021 and the name and title of the
122 committee treasurer who was serving when the printed matter was paid for.

123 (3) In regard to any printed matter paid for by a corporation or other
124 business entity, labor organization, or any other organization not defined to be
125 a committee by subdivision (7) of section 130.011 and not organized especially for
126 influencing one or more elections, it shall be sufficient identification to print the
127 name of the entity, the name of the principal officer of the entity, by whatever
128 title known, and the mailing address of the entity, or if the entity has no mailing
129 address, the mailing address of the principal officer.

130 (4) In regard to any printed matter paid for by an individual or
131 individuals, it shall be sufficient identification to print the name of the individual
132 or individuals and the respective mailing address or addresses, except that if
133 more than five individuals join in paying for printed matter it shall be sufficient
134 identification to print the words "For a list of other sponsors contact:" followed by
135 the name and address of one such individual responsible for causing the matter
136 to be printed, and the individual identified shall maintain a record of the names
137 and amounts paid by other individuals and shall make such record available for
138 review upon the request of any person. No person shall accept for publication or
139 printing nor shall such work be completed until the printed matter is properly
140 identified as required by this subsection.

141 9. Any broadcast station transmitting any matter relative to any
142 candidate for public office or ballot measure as defined by this chapter shall
143 identify the sponsor of such matter as required by federal law.

144 10. The provisions of subsection 8 or 9 of this section shall not apply to
145 candidates for elective federal office, provided that persons causing matter to be
146 printed or broadcast concerning such candidacies shall comply with the
147 requirements of federal law for identification of the sponsor or sponsors.

148 11. It shall be a violation of this chapter for any person required to be
149 identified as paying for printed matter pursuant to subsection 8 of this section or
150 paying for broadcast matter pursuant to subsection 9 of this section to refuse to
151 provide the information required or to purposely provide false, misleading, or
152 incomplete information.

153 12. It shall be a violation of this chapter for any committee to offer
154 chances to win prizes or money to persons to encourage such persons to endorse,
155 send election material by mail, deliver election material in person or contact
156 persons at their homes; except that, the provisions of this subsection shall not be
157 construed to prohibit hiring and paying a campaign staff.

158 **13. (1) Except as provided in subdivision (2) of this subsection,**
159 **no committee shall transfer any funds received by the committee to any**
160 **other committee. Any violation of this subdivision shall be punishable**
161 **as follows:**

162 **(a) For the first violation, the ethics committee shall notify such**
163 **person that the transfer to the committee is prohibited under this**
164 **section within five days of determining that the transfer is prohibited,**
165 **and that such person shall notify the committee to which the funds**
166 **were transferred that the funds must be returned within ten days of**
167 **such notification;**

168 **(b) For the second violation, the treasurer transferring the funds**
169 **shall be subject to a civil penalty in the amount of one thousand**
170 **dollars;**

171 **(c) For the third and subsequent violations, the treasurer**
172 **transferring the funds shall be subject to a civil penalty in the amount**
173 **of five thousand dollars, and shall vacate the position of treasurer for**
174 **all committees and be forever barred from acting as treasurer for any**
175 **committee.**

176 **(2) The prohibition in this subsection shall not apply to any**
177 **transfer of funds from a committee to a candidate committee, or from**
178 **a candidate committee to a continuing committee, unless the funds**
179 **were transferred to the candidate committee with the intent to conceal**
180 **the identity of the actual source of the funds.**

181 **(3) Any treasurer who transfers or attempts to transfer funds**
182 **from a committee to any other committee with the intent to conceal the**
183 **identity of the actual source of the funds shall be subject to a civil**
184 **penalty in the amount of five thousand dollars, and shall vacate the**
185 **position of treasurer for all committees and be forever barred from**
186 **acting as treasurer for any committee.**

130.044. 1. All individuals and committees required to file disclosure
2 reports under section 130.041 shall electronically report any contribution by any
3 single contributor which exceeds five thousand dollars to the Missouri ethics
4 commission within forty-eight hours of receiving the contribution. [Such]

5 **2. Any individual currently holding office as a state**
6 **representative, state senator, or any candidate for such office or such**
7 **individual's campaign committee shall electronically report any**
8 **contribution exceeding two hundred fifty dollars made by any**
9 **contributor to his or her campaign committee during the regular**
10 **legislative session of the general assembly, within forty-eight hours of**
11 **receiving the contribution.**

12 **3. Any individual currently holding office as the governor,**
13 **lieutenant governor, treasurer, attorney general, secretary of state or**
14 **auditor or any candidate for such office or such person's campaign**
15 **committee shall electronically report any contribution exceeding two**
16 **hundred fifty dollars made by any contributor to his or her campaign**
17 **committee during the regular legislative session or any time when**
18 **legislation from the regular legislative session awaits gubernatorial**
19 **action, within forty-eight hours of receiving the contribution.**

20 4. Reports **required under this section** shall contain the same content
21 required under section 130.041 and shall be filed in accordance with the
22 standards established by the commission for electronic filing and other rules the
23 commission may deem necessary to promulgate for the effective administration
24 of this section.

25 [2.] 5. Any rule or portion of a rule, as that term is defined in section
26 536.010, RSMo, that is created under the authority delegated in this section shall
27 become effective only if it complies with and is subject to all of the provisions of
28 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
29 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
30 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
31 date, or to disapprove and annul a rule are subsequently held unconstitutional,
32 then the grant of rulemaking authority and any rule proposed or adopted after
33 August 28, 2008, shall be invalid and void.

✓

Bill

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